

Appln. No. 09/697,389
Amdt. Dated June 30, 2004
Reply of Office Action of May 3, 2004

REMARKS

Reconsideration of the present application, as amended, is respectfully requested.

The May 3, 2004 Final Office Action and the Examiner's comments have been carefully considered. In response, claims are cancelled and amended, and remarks are set forth below in a sincere effort to place the present application in form for allowance. The amendments are supported by the application as originally filed. Therefore, no new matter is added.

Inasmuch as the present Amendment raises no new issues for consideration and, in any event, places the present application in condition for allowance or in better condition for consideration on appeal, its entry under the provisions of 37 CFR 1.116 are respectfully requested.

ALLOWABLE SUBJECT MATTER

The Examiner's indication that claims 5-7 and 12 would be allowable if rewritten to overcome the rejection under the second paragraph of 35 USC 112 and to include all of the limitations of the base claim and any intervening claims is acknowledged and appreciated. In response, claims 5-7 and 12 are not amended to be in independent form in view of the asserted allowability of

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claim 1, upon which claims 5-7 and 12 ultimately depend. If the Examiner ultimately determines that claim 1 is not allowable over the prior art of record, Applicant may amend the allowable claims to be in independent form.

CLAIM OBJECTIONS

In the Office Action claim 1 is objected to in view of an informality. In response, claim 1 is amended to change "denoted background points" to "denoted as background points". In view of the amendment of claim 1, reconsideration and withdrawal of the objection to claim 1 are respectfully requested.

REJECTION UNDER 35 USC 112

In the Office Action claims 4-7 and 12 are rejected under the second paragraph of 35 USC 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In response, claim 1, which now includes the subject matter of claim 4, positively recites "second binary control signals" so that there is proper antecedent basis for each term used in the claims. In view of the amendment of claim 1, reconsideration and withdrawal of the rejection of claims 4-7 and 12 are respectfully

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requested.

DOUBLE PATENTING

In the Office Action, claims 1-4 and 8-11 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3, 4, 9 and 10 of USP 6,574,300 (Florent et al.) in view of USP 5,289,373 (Zarge et al.). In response, a Terminal Disclaimer (and check for \$110 to cover the Patent Office fee for submission of the Terminal Disclaimer) is submitted herewith disclaiming the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of Florent et al. In view of the submission of the Terminal Disclaimer, reconsideration and withdrawal of the double patenting rejection are respectfully requested.

REJECTION UNDER 35 USC 103

In the Office Action, claims 1-3 and 8-11 are rejected under 35 USC 103(a) as being unpatentable over the article by Aufrichtig et al. in view of Zarge et al.

In response, claim 1 is amended to include the subject matter of claim 4, and intervening claims 2 and 3. Since claim 4

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was not rejected in view of Aufrichtig et al. in view of Zarge et al., it is respectfully submitted that claim 1 as amended is patentable over the cited references. Claims 5-12 are patentable over the cited references in view of their dependence on claim 1 and/or because the cited references do not disclose, teach or suggest each of the limitations set forth in these claims.

In view of the foregoing, the rejection of claims 1-3 and 8-11 as being unpatentable over Aufrichtig et al. in view of Zarge et al. are respectfully requested has been overcome.

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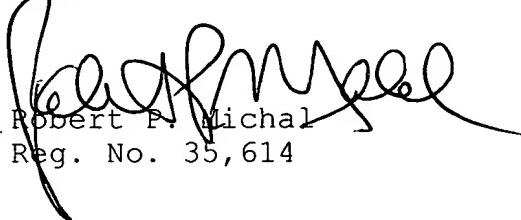
If the Examiner disagrees with any of the foregoing, the Examiner is respectfully requested to point out where there is support for a contrary view.

Entry of this Amendment under the provisions of 37 CFR 1.116, allowance of the claims, and the passing of the application to issue are respectfully solicited.

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If the Examiner has any comments, questions, objections or recommendations, the Examiner is invited to telephone the undersigned at the telephone number given below for prompt action.

Respectfully submitted,


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